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July 23, 2010

BY HAND DELIVERY

Ms. Cynthia Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001

ENTERED
Office of Proceedings
JUL 23 2010
Part of
Public Record

Re: Finance Docket No. 35305, *Arkansas Electric Cooperative Corp.* --
Petition for Declaratory Order

Dear Ms. Brown:

The Western Coal Traffic League ("WCTL") and Concerned Captive Coal Shippers (collectively "Coal Shippers") submit this letter in support of the July 22, 2010 Motion of Arkansas Electric Cooperative Corporation ("AECC") to Strike BNSF Railway's Designation of Gregory Fox to Argue and in response to BNSF's July 22, 2010 reply thereto. There are several reasons why Mr. Fox should not be allowed to testify.

First, as AECC notes, the Board's decision served June 10, 2010 required each party to file a notice "identifying counsel who will be arguing." Mr. Fox is a fact witness, rather than an attorney or practitioner. BNSF's request to have Mr. Fox appear at the argument violates the Board's June 10 decision.

Second, BNSF's July 22, 2010 reply letter attempts to respond to AECC's concerns about Mr. Fox's appearance at the argument by stating that Mr. Fox will not present new evidence, but rather will "be highlighting significant aspects of BNSF's prior evidentiary submissions." Mr. Fox's appearance is not needed for this purpose. BNSF's counsel is more than capable of "highlighting significant aspects" of its prior evidence without the help of a fact witness. By contrast, allowing a fact witness to talk about the

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factual evidence that is already in the record constitutes a reopening of the record. Mr. Fox may have an opportunity to explain his prior testimony, potentially field questions from the Board, and "highlight" BNSF's responses to the many criticisms that Coal Shippers have identified in response to his statements in the current record. All of this presents great opportunity for Mr. Fox to inappropriately supplement a closed record.

Finally, Coal Shippers object to the highly unusual manner in which Mr. Fox's name was added to the list of counsel that will be appearing on July 29, 2010. The Board granted BNSF's request the same day it was filed, without giving any other parties the opportunity to object to a request that was directly contrary to the limited nature of the Board's June 10 decision.

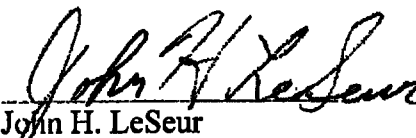
For all of these reasons, and the reasons stated in AECC's Motion to Strike, Coal Shippers respectfully request that Mr. Fox's name be stricken from the list of counsel who will be arguing.

Thank you for your attention to this matter.

Sincerely,



C. Michael Loftus
*An Attorney for
Concerned Captive
Coal Shippers*



John H. LeSeur
*An Attorney for
Western Coal Traffic League*

cc: Parties of Record